

HB 2671 - S COMM AMD
By Committee on Ways & Means

NOT ADOPTED 03/07/2006

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 82.32.045 and 2003 1st sp.s. c 13 s 8 are each
4 amended to read as follows:

5 (1) Except as otherwise provided in this chapter, payments of the
6 taxes imposed under chapters 82.04, 82.08, 82.12, 82.14, and 82.16 RCW,
7 along with reports and returns on forms prescribed by the department,
8 are due monthly within (~~twenty~~) twenty-five days after the end of the
9 month in which the taxable activities occur.

10 (2) The department of revenue may relieve any taxpayer or class of
11 taxpayers from the obligation of remitting monthly and may require the
12 return to cover other longer reporting periods, but in no event may
13 returns be filed for a period greater than one year. For these
14 taxpayers, tax payments are due on or before the last day of the month
15 next succeeding the end of the period covered by the return.

16 (3) The department of revenue may also require verified annual
17 returns from any taxpayer, setting forth such additional information as
18 it may deem necessary to correctly determine tax liability.

19 (4) Notwithstanding subsections (1) and (2) of this section, the
20 department may relieve any person of the requirement to file returns if
21 the following conditions are met:

22 (a) The person's value of products, gross proceeds of sales, or
23 gross income of the business, from all business activities taxable
24 under chapter 82.04 RCW, is less than twenty-eight thousand dollars per
25 year;

26 (b) The person's gross income of the business from all activities
27 taxable under chapter 82.16 RCW is less than twenty-four thousand
28 dollars per year; and

29 (c) The person is not required to collect or pay to the department

1 of revenue any other tax or fee which the department is authorized to
2 collect.

3 **Sec. 2.** RCW 82.23B.020 and 2003 1st sp.s. c 13 s 9 are each
4 amended to read as follows:

5 (1) An oil spill response tax is imposed on the privilege of
6 receiving crude oil or petroleum products at a marine terminal within
7 this state from a waterborne vessel or barge operating on the navigable
8 waters of this state. The tax imposed in this section is levied upon
9 the owner of the crude oil or petroleum products immediately after
10 receipt of the same into the storage tanks of a marine terminal from a
11 waterborne vessel or barge at the rate of one cent per barrel of crude
12 oil or petroleum product received.

13 (2) In addition to the tax imposed in subsection (1) of this
14 section, an oil spill administration tax is imposed on the privilege of
15 receiving crude oil or petroleum products at a marine terminal within
16 this state from a waterborne vessel or barge operating on the navigable
17 waters of this state. The tax imposed in this section is levied upon
18 the owner of the crude oil or petroleum products immediately after
19 receipt of the same into the storage tanks of a marine terminal from a
20 waterborne vessel or barge at the rate of four cents per barrel of
21 crude oil or petroleum product.

22 (3) The taxes imposed by this chapter shall be collected by the
23 marine terminal operator from the taxpayer. If any person charged with
24 collecting the taxes fails to bill the taxpayer for the taxes, or in
25 the alternative has not notified the taxpayer in writing of the
26 imposition of the taxes, or having collected the taxes, fails to pay
27 them to the department in the manner prescribed by this chapter,
28 whether such failure is the result of the person's own acts or the
29 result of acts or conditions beyond the person's control, he or she
30 shall, nevertheless, be personally liable to the state for the amount
31 of the taxes. Payment of the taxes by the owner to a marine terminal
32 operator shall relieve the owner from further liability for the taxes.

33 (4) Taxes collected under this chapter shall be held in trust until
34 paid to the department. Any person collecting the taxes who
35 appropriates or converts the taxes collected shall be guilty of a gross
36 misdemeanor if the money required to be collected is not available for
37 payment on the date payment is due. The taxes required by this chapter

1 to be collected shall be stated separately from other charges made by
2 the marine terminal operator in any invoice or other statement of
3 account provided to the taxpayer.

4 (5) If a taxpayer fails to pay the taxes imposed by this chapter to
5 the person charged with collection of the taxes and the person charged
6 with collection fails to pay the taxes to the department, the
7 department may, in its discretion, proceed directly against the
8 taxpayer for collection of the taxes.

9 (6) The taxes shall be due from the marine terminal operator, along
10 with reports and returns on forms prescribed by the department, within
11 (~~twenty~~) twenty-five days after the end of the month in which the
12 taxable activity occurs.

13 (7) The amount of taxes, until paid by the taxpayer to the marine
14 terminal operator or to the department, shall constitute a debt from
15 the taxpayer to the marine terminal operator. Any person required to
16 collect the taxes under this chapter who, with intent to violate the
17 provisions of this chapter, fails or refuses to do so as required and
18 any taxpayer who refuses to pay any taxes due under this chapter, shall
19 be guilty of a misdemeanor as provided in chapter 9A.20 RCW.

20 (8) Upon prior approval of the department, the taxpayer may pay the
21 taxes imposed by this chapter directly to the department. The
22 department shall give its approval for direct payment under this
23 section whenever it appears, in the department's judgment, that direct
24 payment will enhance the administration of the taxes imposed under this
25 chapter. The department shall provide by rule for the issuance of a
26 direct payment certificate to any taxpayer qualifying for direct
27 payment of the taxes. Good faith acceptance of a direct payment
28 certificate by a terminal operator shall relieve the marine terminal
29 operator from any liability for the collection or payment of the taxes
30 imposed under this chapter.

31 (9) All receipts from the tax imposed in subsection (1) of this
32 section shall be deposited into the state oil spill response account.
33 All receipts from the tax imposed in subsection (2) of this section
34 shall be deposited into the oil spill prevention account.

35 (10) Within forty-five days after the end of each calendar quarter,
36 the office of financial management shall determine the balance of the
37 oil spill response account as of the last day of that calendar quarter.
38 Balance determinations by the office of financial management under this

1 section are final and shall not be used to challenge the validity of
2 any tax imposed under this chapter. The office of financial management
3 shall promptly notify the departments of revenue and ecology of the
4 account balance once a determination is made. For each subsequent
5 calendar quarter, the tax imposed by subsection (1) of this section
6 shall be imposed during the entire calendar quarter unless:

7 (a) Tax was imposed under subsection (1) of this section during the
8 immediately preceding calendar quarter, and the most recent quarterly
9 balance is more than nine million dollars; or

10 (b) Tax was not imposed under subsection (1) of this section during
11 the immediately preceding calendar quarter, and the most recent
12 quarterly balance is more than eight million dollars.

13 **Sec. 3.** RCW 82.27.060 and 2003 1st sp.s. c 13 s 10 are each
14 amended to read as follows:

15 The taxes levied by this chapter shall be due for payment monthly
16 and remittance therefor shall be made within (~~(twenty)~~) twenty-five
17 days after the end of the month in which the taxable activity occurs.
18 The taxpayer on or before the due date shall make out a signed return,
19 setting out such information as the department of revenue may require,
20 including the gross measure of the tax, any deductions, credits, or
21 exemptions claimed, and the amount of tax due for the preceding monthly
22 period, which amount shall be transmitted to the department along with
23 the return.

24 The department may relieve any taxpayer from the obligation of
25 filing a monthly return and may require the return to cover other
26 periods, but in no event may periodic returns be filed for a period
27 greater than one year. In such cases tax payments are due on or before
28 the last day of the month next succeeding the end of the period covered
29 by the return.

30 **Sec. 4.** RCW 82.32.085 and 1990 c 69 s 3 are each amended to read
31 as follows:

32 (1) "Electronic funds transfer" means any transfer of funds, other
33 than a transaction originated by check, drafts, or similar paper
34 instrument, which is initiated through an electronic terminal,
35 telephonic instrument, or computer or magnetic tape so as to order,

1 instruct, or authorize a financial institution to debit or credit an
2 account.

3 ~~((The electronic funds transfer is to be completed so that the
4 state receives collectible funds on or before the next banking day
5 following the due date.))~~

6 (2)(a) Except as provided in (b) of this subsection, the electronic
7 funds transfer is to be completed so that the state receives
8 collectible funds on or before the next banking day following the due
9 date.

10 (b) A remittance made using the automated clearinghouse debit
11 method will be deemed to be received on the due date if the electronic
12 funds transfer is initiated on or before 11:59 p.m. pacific time on the
13 due date with an effective payment date on or before the next banking
14 day following the due date.

15 (3)(a) The department shall adopt rules necessary to implement the
16 provisions of RCW 82.32.080 and this section. The rules shall include
17 but are not limited to: ~~((1))~~ (i) Coordinating the filing of tax
18 returns with payment by electronic funds transfer; ~~((2))~~ (ii) form
19 and content of electronic funds transfer; ~~((3))~~ (iii) voluntary use
20 of electronic funds transfer with permission of the department; ~~((4))~~
21 (iv) use of commonly accepted means of electronic funds transfer;
22 ~~((5))~~ (v) means of crediting and recording proof of payment; and
23 ~~((6))~~ (vi) means of correcting errors in transmission.

24 (b) Any changes in the threshold of tax shall be implemented with
25 a separate rule-making procedure.

26 NEW SECTION. Sec. 5. (1) The legislature recognizes the following
27 with respect to the payment of excise taxes to the department of
28 revenue by electronic funds transfer:

29 (a) Taxpayers required to pay their taxes by electronic funds
30 transfer must do so through the use of either the automated
31 clearinghouse debit method or automated clearinghouse credit method;

32 (b) For a remittance by electronic funds transfer to be considered
33 timely, the transfer must be completed so that the state receives
34 collectible funds on or before the next banking day following the due
35 date;

36 (c) For the state to receive collectible funds on or before the

1 next banking day following the due date, taxpayers using the automated
2 clearinghouse debit method must initiate the transfer before 5:00 p.m.
3 pacific time on the due date;

4 (d) The department of revenue receives information identifying the
5 precise date and time the electronic funds transfer is initiated when
6 a taxpayer uses the debit method; and

7 (e) The department receives information identifying only the date
8 that the state receives collectible funds when a taxpayer uses the
9 automated clearinghouse credit method.

10 (2) The legislature therefore finds that a remittance made using
11 the automated clearinghouse debit method should be deemed to be
12 received on the due date if the transfer is initiated on or before
13 11:59 p.m. pacific time on the due date with an effective payment date
14 on or before the next banking day following the due date. The
15 legislature further finds that because the department does not receive
16 information about when an electronic funds transfer is initiated when
17 a taxpayer uses the automated clearinghouse credit method, such
18 transfers must be completed so that the state receives collectible
19 funds on or before the next banking day following the due date.

20 **Sec. 6.** RCW 82.32.105 and 1998 c 304 s 13 are each amended to read
21 as follows:

22 (1) If the department of revenue finds that the payment by a
23 taxpayer of a tax less than that properly due or the failure of a
24 taxpayer to pay any tax by the due date was the result of circumstances
25 beyond the control of the taxpayer, the department of revenue shall
26 waive or cancel any penalties imposed under this chapter with respect
27 to such tax.

28 (2) The department shall waive or cancel the penalty imposed under
29 RCW 82.32.090(1) when the circumstances under which the delinquency
30 occurred do not qualify for waiver or cancellation under subsection (1)
31 of this section if:

32 (a) The taxpayer requests the waiver for a tax return required to
33 be filed under RCW 82.32.045, 82.14B.061, 82.23B.020, 82.27.060,
34 82.29A.050, or 84.33.086; and

35 (b) The taxpayer has timely filed and remitted payment on all tax
36 returns due for that tax program for a period of twenty-four months

1 immediately preceding the period covered by the return for which the
2 waiver is being requested.

3 (3) The department shall waive or cancel the initial five percent
4 assessment penalty imposed under RCW 82.32.090(2) when the
5 circumstances under which the deficiency occurred do not qualify for
6 waiver or cancellation under subsection (1) of this section if:

7 (a) The taxpayer requests the waiver for a single tax return
8 required to be filed under RCW 82.32.045, 82.14B.061, 82.23B.020,
9 82.27.060, 82.29A.050, or 84.33.086, whether or not the assessment
10 covers a single tax return or multiple tax returns;

11 (b) The penalty is not included in an assessment involving more
12 than a twelve-month period; and

13 (c) The amount of underpaid tax included in the assessment is no
14 more than twenty percent of the total tax due for the period or periods
15 included in the assessment.

16 The waiver in this subsection shall only be granted once in a
17 twelve-month period.

18 (4) The department shall waive or cancel interest imposed under
19 this chapter if:

20 (a) The failure to timely pay the tax was the direct result of
21 written instructions given the taxpayer by the department; or

22 (b) The extension of a due date for payment of an assessment of
23 deficiency was not at the request of the taxpayer and was for the sole
24 convenience of the department.

25 ~~((4))~~ (5) The department of revenue shall adopt rules for the
26 waiver or cancellation of penalties and interest imposed by this
27 chapter.

28 NEW SECTION. Sec. 7. (1) Sections 1 through 3 of this act apply
29 to returns due after July 31, 2006.

30 (2) Section 4 of this act applies to payments due after July 31,
31 2006.

32 (3) Section 6 of this act only applies to assessments originally
33 issued after June 30, 2006.

34 NEW SECTION. Sec. 8. This act does not affect any existing right
35 acquired or liability or obligation incurred under the sections amended

1 in this act or under any rule or order adopted under those sections,
2 nor does it affect any proceeding instituted under those sections.

3 NEW SECTION. **Sec. 9.** (1) Sections 1 through 4 of this act take
4 effect August 1, 2006.

5 (2) Sections 6 and 7 of this act take effect July 1, 2006."

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6 On page 1, line 2 of the title, after "penalty;" strike the
7 remainder of the title and insert "amending RCW 82.32.045, 82.23B.020,
8 82.27.060, 82.32.085, and 82.32.105; creating new sections; and
9 providing effective dates."

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